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Appeal Brief	09/430,045

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1) Appeal Brief (27 pages)
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: David Carroll Cromwell et al.   Examiner: Nguyen, Dustin
Serial No. 09/430,045   Art Unit: 2154
Filed: 10/29/1999
For: **METHODS AND SYSTEMS FOR PROVIDING ACCESS TO STORED AUDIO DATA OVER A NETWORK**

Mail Stop Appeal Brief – Patents
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PO Box 1450
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Sir:

An **APPEAL BRIEF** is filed herewith. Appellant encloses a Credit Card Payment Form in the amount of $620.00 to cover the fees associated with this Appeal Brief and a One-month Extension of Time and requests this be considered a petition therefor. If any additional fees are required in association with this appeal brief, the Director is hereby authorized to charge them to Deposit Account 50-1732, and consider this a petition therefor.

APPEAL BRIEF

(1) REAL PARTY IN INTEREST

The present application is owned by Nortel Networks Limited of 2351 Boulevard Alfred-Nobel, St. Laurent, Quebec Canada H4S 2A9, which is wholly owned by Nortel Networks Corporation, a Canadian corporation.

(2) RELATED APPEALS AND INTERFERENCES

There are no pending related appeals or interferences to the best of Appellant's knowledge. Appellant had filed a previous appeal brief in the present application on April 21, 2005. After the filing of that appeal brief, the Patent Office reopened prosecution and issued a new non-final Office Action on July 28, 2005, citing new prior art in a new rejection, which is the subject of the current Appeal Brief. A Final Office Action followed on January 9, 2006. Appellant is now appealing from the January 9, 2006 Final Office Action. The current Appeal Brief therefore addresses issues unrelated to the previous Appeal Brief filed on April 21, 2005.

(3) STATUS OF CLAIMS

Claims 1-19, 36-45, and 52-69 were rejected with the rejection made final on January 9, 2006.

Claims 1-19, 36-45, and 52-69 are pending and the subject of this appeal.

(4) STATUS OF AMENDMENTS

All amendments have been entered to the best of Appellant's knowledge.

(5) SUMMARY OF CLAIMED SUBJECT MATTER

The present invention is designed to facilitate the propagation of network-related announcements to various locations in a telephone network, and more particularly to telephony users of an IP telephony network (Figure 2, Element 204). Specifically, the present invention is designed to allow the standardization of network-related announcements in a central audio database in an audio server (Figure 2, Element 208). To do this, various audio segments are assembled in the audio database. Each audio segment has a unique audio identifier (Specification, p. 21, lines 10-15). Audio segments are assembled into sequences (Specification, p. 21, lines 10-15; see also Figure 5, ST2) and played over the telephonic network to convey network-related announcements to telephone users or other recipients. For example, a sequence of discrete audio segments could be 1) "The time is", 2) "2:02 PM", and 3) "Thank you for using AT&T" (see similar example Specification, p. 17, lines 3-17). Each element of this announcement is its own audio segment. Each sequence may have a sequence identifier (Specification, p. 21, line 23).

A processor (such as CPU 500, Figure 4(a)) is used to locate these discrete audio segments in the database (Specification, p. 19, line 24 through p. 20, line 5). The processor locates the audio segments by way of the audio identifiers. A request for a particular sequence will include each audio identifier corresponding to each audio segment needed for the audio sequence (Specification, p. 22, lines 3-17 and Figure 5). Once the segments have been located, the segments will be played to the telephony network user (page 22, lines 19-20). The application has some very specific definitions for the terms "audio segment," "audio identifier," and the like. These definitions are found on p. 4, line 12 through p. 5, line 2.

Claim 1 recites a sequence processor (CPU 500, Figure 4 (a)) for providing access to a sequence of audio segments accessible by an audio server (Element 208, Figure 2), the sequence

2

processor comprising computer-executable instructions embodied in a computer-readable medium for performing the steps comprising:

(a) receiving a request for playing the sequence of audio segments, wherein the sequence of audio segments comprises at least portions of network-related announcements to be played to a recipient, the sequence being identified by an audio identifier (Figure 5, ST1; see also Specification, p. 22, lines 7-12);

(b) locating, in an audio server database, the sequence of audio segments based on the audio identifier (Figure 5, ST2; see also Specification, p. 22, lines 12-15); and

(c) playing the sequence of audio segments to the recipient so that the recipient is apprised of at least one network-related announcement (Figure 5, ST3; see also Specification, p. 22, lines 15-17).

Claim 36 is similar to claim 1, but cites the elements in mean plus function format. The means for receiving the request is the sequence processor (CPU 500, Figure 4 (a)). The means for locating the sequence in the audio server database is also the CPU 500 and may be in conjunction with a look-up table (see Specification, p. 22, lines 12-15). The means for playing the sequence is also the CPU 500 with the audio hardware 400. In a packet network, the means for playing the sequence can include sending packets of audio data through a gateway 200 (Figure 2) which will convert audio packets into an analog signal to be played to the user (Specification, p. 22, lines 15-20).

Claim 52 is similar to claim 1 but is written in method form.

Claim 7 is directed to a set processor (CPU 500, Figure 4(a)) for providing access to elements of a set of stored audio data (Specification, p. 23, line 22 through p. 24, line 20), the set processor comprising computer-executable instructions embodied in a computer-readable medium for performing steps, comprising:

(a) receiving a request generated by a network component, said request comprising a request to play an audio segment to a recipient, the audio segment relating to a network-related announcement, the request including an audio identifier for identifying a set containing the audio segment and a selector for specifying a member of the set corresponding to the audio segment (Figure 7, ST1; see also Specification, p. 27, lines 8-13); and

3

(b) selecting the audio segment to be played based on the audio identifier and the selector (Figure 7, ST2-7; see also Specification, p. 27, line 13 through p. 28, line 6).

Claim 40 is similar to claim 7, albeit in means plus function format. This means for receiving the request is the CPU 500 which acts as the set processor. The means for selecting the audio segment is also the CPU 500.

Claim 55 is similar to claim 7, except it is directed to a method.

Claim 12 recites a variable processor (CPU 500, Figure 5) for providing access to stored audio data segments corresponding to variables, the variable processor comprising computer-executable instructions embodied in a computer-readable medium for performing steps, comprising:

(a) receiving a request to play a sequence of audio data segments, the sequence adapted to convey a network-related announcement to a recipient, the request including a variable (Figure 12, ST1; see also Specification, p. 58, lines 14-15 and p. 52, line 20 through p. 58, line 9); and

(b) determining whether the variable is an embedded variable (Figure 12, ST2; see also Specification, p. 58, lines 15-16 and p. 53, lines 1-2);

(c) in response to determining that the variable is an embedded variable, resolving a sequence of audio data segments containing the variable and resolving the variable (Figure 12, ST3; see also Specification, p. 58, lines 16-19); and

(d) playing the sequence including the variable (Figure 12, ST 4; see also Specification, p. 58, lines 19-20).

Claim 43 is similar to claim 12, albeit in means plus function format. In each step, the means is the CPU 500. The CPU 500 works to control the audio hardware 400 to play the sequence.

Claim 59 recites a computer-readable medium having stored thereon a set data structure, the set data structure comprising:

(a) a first data field containing an audio identifier representing a set containing a plurality of members representing audio segments comprising at least portions of network-related

4

announcements to be played to a recipient (Specification, p. 23, line 22 through p. 24, line 2; see also Figure 6); and

(b) a second data field containing a selector for selecting one of the members in the set (Specification, p. 24, line 2 through p. 25, line 20; see also Figure 6).

Claim 60 recites an audio server (Element 208; Figure 2) comprising:

(a) an interface card (communication card 510, Figure 5; see also Specification, p. 20, line 10) for receiving a request for playing a sequence of stored audio data segments, the audio data segments comprising at least portions of network-related announcements to be played to a recipient, the sequence being identified by an audio identifier;

(b) an audio server database embodied in a memory device (Element 502, Figure 5; see also Specification, p. 20, lines 1-2) storing provisioned sequences of audio data segments; and

(c) a processor (CPU 500, Figure 5; see also Specification, p. 20, lines 14-15) programmed to extract a sequence of audio segments from the audio server database using the audio identifier in the request.

Claim 63 recites a processor (CPU 500, Figure 5) for providing access to audio data segments accessible by an audio server, the processor comprising computer-executable instructions embodied in a computer-readable medium for performing steps comprising:

(a) receiving a request for playing audio data segments, the audio data segments comprising at least a portion of a network-related announcement to be played to a recipient, the request including at least one parameter for identifying the audio data segments (Figure 5; ST1 and Figure 7, ST1; see also Specification, p. 22, lines 12-15 and p. 27, lines 8-13);

(b) locating, in an audio server database, the audio data segments based on the parameter (Figure 5, ST2 and Figure 7, ST2; see also Specification, p. 22, lines 15-17 and p. 27, line 13 through p. 28, line 6); and

(c) playing the audio segments (Figure 5, ST2 and Figure 7, ST8; see also Specification, p. 22, lines 15-17).

Claim 67 recites an audio server package (Specification, p. 31, lines 1 through p. 36, line 12) comprising:

(a) an event symbol (see Table 4, p. 31) recognizable by an audio server for instructing the audio server to detect or perform an action, the event symbol including a play announcement parameter for instructing the audio server to play a network-related announcement (Specification, p. 31, line 10 through p. 36, line 12);

(b) a first parameter associated with the event symbol for defining how the audio server detects or performs the action, the first parameter including an announcement parameter for indicating the network-related announcement to be played (Specification, p. 33, line 3 through p. 36, line 12; see also Table 5, pp. 33-34); and

(c) an audio identifier associated with the announcement parameter for uniquely identifying an audio segment including the network-related announcement to be played (Specification, p. 46, lines 21-22).

(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A)   Whether claims 1, 7, 36, 40, 52, 55, 60-62, 64, and 65 were properly rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,539,808 to Inniss et al. (hereinafter "Inniss") in view of U.S. Patent No. 5,528,672 to Wert (hereinafter "Wert").

B)   Whether claims 2-4, 10, 11, 37, 38, 53, 54, and 56 were properly rejected under 35 U.S.C. § 103(a) as being unpatentable over Inniss in view of Wert and further in view of Mauricio Arango et al. "Media Gateway Control Protocol", XP-002278702 (hereinafter "Arango").

C)   Whether claims 5, 6, 12-19, 39, 43-45, 59, 63, and 66-69 were properly rejected under 35 U.S.C. § 103(a) as being unpatentable over Inniss in view of Wert and further in view of U.S. Patent No. 6,496,570 to Nimphius (hereinafter "Nimphius").

D)   Whether claims 8, 9, 41, 42, 57, and 58 were properly rejected under 35 U.S.C. § 103(a) as being unpatentable over Inniss in view of Wert and further in view of U.S. Patent No. 5,926,789 to Barbara et al. (hereinafter "Barbara").

(7) ARGUMENT

A. Introduction

The Patent Office is improperly combining the references using hindsight to reconstruct the claimed invention using Appellant's disclosure as a template. In particular, the Patent Office's

6

proposed combination would render one of the references unsuitable for its intended purpose. In addition, the asserted motivation does not compel the proposed combination. Finally, even if properly combined, a point Appellant does not concede, the references do not teach or suggest each and every element of the claimed invention.

B. Summary of the References

1. U.S. Patent No. 5,539,808 to Inniss

Inniss is directed to the efficient distribution of audio messages within a data processing system. In particular, Inniss relates to a method and system which permits a user to distribute selectively designated pre-recorded messages in association with a primary message within a data processing system (Inniss, col. 1, lines 9-16). In other words, Inniss allows users to automate their use of voicemail (Inniss, col. 1, lines 24-31; col. 2, lines 11-19; col. 3, lines 58-63). In the system of Inniss, the user first creates a plurality of selectable audio messages including standard format salutations, originator identification, or other such messages, to be stored within the data processing system. The user may then explicitly or automatically designate any of the selectable audio messages to be associated with a primary message. The audio messages are then distributed to designated recipients using the data processing system. The recipient may use the associated audio message to derive additional information regarding the originator of the primary message and may obtain access to a repository of selectable audio messages associated with the originator and request a distribution of any or all of those selectable audio messages (Inniss, Abstract).

2. U.S. Patent No. 5,528,672 to Wert

Wert is directed to a telephone network system which routes audio and image announcements into a call originating from a local telephone station of a calling party. A subscriber may select desired audio and image announcements that are generated by a network announcement facility. The routing manager located at a customer subscriber location is interfaced with a network control point for determining the routing logic of the call to the switch as a function of factors such as location of the caller and the time of day. The routing manager also includes an interface with the network announcement assembly so that the subscriber can generate audio and image announcements and transfer the announcements to the network announcement facility via a separate data path. A subscriber may select the desired audio and

7

image announcements to be switched into the call originated from the calling party based on different parameters (Wert, Abstract).

3. Arango, "Media Gateway Control Protocol", XP-002278702

This reference is an IETF draft directed to Media Gateway Control Protocol (MGCP) call flows. MGCP is a protocol that orgainizes the communication between a Media Gateway controller (or call agent) and a Media Gateway (e.g. a VoIP gateway or a Network Access Server). The Arango IETF draft provides examples of MGCP usage by providing a variety of call flows for use in telephony and network access servers.

4. U.S. Patent No. 6,496,570 to Nimphius

Nimphius is directed to a method and communication network in which one or more announcement texts are established in a service control point. A message initiated on the basis of a call of a subscriber where information about the supportability of announcements are contained is received and interpreted by the SCP. If there is support of an announcement, a message in which the announcement text is contained is sent from the SCP and an announcement unit converts the received announcement text into an announcement that is transmitted to the calling subscriber on a voice channel (Nimphius, Abstract)

5. U.S. Patent No. 5,926,789 to Barbara

Barbara is directed to a wide area information system that includes a client and at least one server on which audio data is stored. Audio data is selectively transferred to the client from the server. The transfer of audio data is controlled by user selected commands and inputs via the client. The audio data on the server is organized in page units that are cross-linked by way of hyperaudio links. The page units are characteristically searchable with the use of cyclically repeating directory pages of audible directory information (Barbara, Abstract).

C. The Standards for Establishing Obviousness

Section 103(a) of the Patent Act provides the statutory basis for an obviousness rejection and reads as follows:

8

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Courts have interpreted 35 U.S.C. § 103(a) as being a question of law based on underlying facts. As the Federal Circuit stated:

Obviousness is ultimately a determination of law based on underlying determinations of fact. These underlying factual determinations include: (1) the scope and content of the prior art; (2) the level of ordinary skill in the art; (3) the differences between the claimed invention and the prior art; and (4) the extent of any proffered objective indicia of nonobviousness.

Monarch Knitting Mach. Corp. v. Sulzer Morat GmBH, 139 F.3d 877, 881 (Fed. Cir. 1998) (internal citations omitted).

The burden is on the Patent Office to establish a *prima facie* case of obviousness. *In re Fine*, 837 F.3d 1071, 1074 (Fed. Cir. 1988). "To reach a proper conclusion under § 103, the decisionmaker must step backward in time and into the shoes worn by [a person having ordinary skill in the art] when the invention was unknown and just before it was made." *Id.* at 1073 (quoting *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1566 (Fed. Cir. 1987) (paraphrase in *Fine*'s original text)). "One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." *In re Fine* at 1075.

The "case law makes clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references." *In re Dembiczak*, 175 F.3d 994, 999 (Fed. Cir. 1999). "Combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability - the essence of hindsight." *Ibid.*

It is worth noting that where the teachings of two or more prior art references conflict, the examiner must weigh the power of each reference to suggest solutions to one of ordinary skill in the art, considering the degree to which one reference might accurately discredit another. *In re Young*, 927 F.2d 588 (Fed. Cir. 1991); MPEP § 2143.01. Further, if the combination of two

9

references makes one of the references unsuitable for its intended purpose, then the combination is non-obvious. MPEP § 2143.01.

For a *prima facie* case of obviousness, the combination must teach or fairly suggest all the claim elements. *In re Royka*, 490 F.2d 981 (CCPA 1974); MPEP § 2143.03. If the Patent Office fails to establish obviousness, then the Appellant is entitled to a patent. *In re Glaug*, 283 F.3d 1335, 1338 (Fed. Cir. 2002).

D. Claims 1-19, 36-45 and 52-69 Are Non-Obvious

1. The Proposed Combination Renders Inniss Unsuitable for Its Intended Purpose

If the combination of two references makes one of the references unsuitable for its intended purpose, then the combination is non-obvious. MPEP § 2143.01. The Patent Office has rejected claims 1, 7, 36, 40, 52, 55, 60-62, 64, and 65 under 35 U.S.C. § 103(a) as being obvious over Inniss in view of Wert (Final Office Action mailed January 9, 2006, p. 5). In particular, the Patent Office admits that Inniss does not teach the network announcements of the claimed invention and relies on Wert to show network announcements (Final Office Action mailed January 9, 2006, p. 6). Part of the reason Inniss does not teach network announcements is that Inniss's purpose is to allow users to automate their use of voicemail. (see Inniss col. 2, lines 11-19). More specifically, Inniss's object is to permit "a user to selectively designate pre-recorded audio messages for distribution with a primary message which permits a recipient to request a selected distribution of pre-recorded messages from the originator." (Inniss, col. 2, lines 31-35). If Wert's network announcements are inserted into the Inniss system, Inniss is no longer capable of sending the pre-recorded voicemails which are the stated purpose of Inniss. Thus, combining Wert and Inniss makes Inniss unsuitable for its intended purpose and the combination of Inniss and Wert is non-obvious. Since the combination of the two references is non-obvious, the rejections based on the combination are improper. Therefore, claims 1, 7, 36, 40, 52, 55, 60-62, 64, and 65 should be allowed at this time.

2. The Asserted Motivation to Combine Inniss and Wert Does Not Compel the Proposed Combination

Appellant further traverses the motivation to combine the references. Specifically, there must be some suggestion to combine the references. MPEP § 2143.01. The Patent Office asserts

10

that the motivation to combine the references is to allow delivery of network announcements on a real time basis, citing Wert, col. 2, lines 41-43 (see Office Action mailed July 28, 2005, p. 6, lines 3-6). However, this asserted motivation does not compel the combination. Rather, someone seeking to deliver network announcements would find Wert and have a solution to their need for real time delivery of network announcements without needing Inniss. Thus, the need for real time delivery of network announcements does not compel the combination, but merely results in the usage of Wert. To this extent, the Patent Office's asserted motivation to combine the references is improper. Since the motivation to combine the references is improper, the combination is improper. Since the combination is improper, the rejections based on the combination are improper. Appellant respectfully submits that claims 1, 7, 36, 40, 52, 55, 60-62, 64, and 65 are allowable for this reason as well.

3. Inniss and Wert Do Not Teach or Suggest Each and Every Element of the Claimed Invention

Even if properly combined, a point Appellant does not concede, Inniss and Wert do not teach or suggest each and every element of the claimed invention. Claim 1 is directed to a sequence processor for providing access to a sequence of audio segments accessible by an audio server, the sequence processor comprising computer-executable instructions embodied in a computer-readable medium for performing certain steps. These steps include: (a) receiving a request for playing the sequence of audio segments, wherein the sequence of audio segments comprises at least portions of network-related announcements to be played to a recipient, **the sequence being identified by an audio identifier**; (b) locating, in an audio server database, the sequence of audio segments **based on the audio identifier**; and (c) playing the sequence of audio segments so that the recipient is apprised of at least one network-related announcement. The claim requires that the audio sequence be identified by an audio identifier. The terms "audio segment" and "audio identifier" have specific definitions in the Specification. An "audio segment" is "the atomic unit of audio data" (Specification, p. 4, line 13). An "audio identifier" is defined as "a number or code uniquely associated with an audio segment" (Specification, p. 4, lines 14-15).

The Patent Office asserts that Inniss teaches the sequence of audio segments being identified by an audio identifier at Figure 7 and col. 9, lines 38-52 (Final Office Action mailed

11

January 9, 2006, p. 6). Figure 7 of Inniss is a graphic representation of a data stream comprising associated selectable audio messages, a primary message and a digital representation of a selectable audio message (Inniss, col. 3, lines 21-25). There is no audio identifier shown in Figure 7, at least not a number or code uniquely associated with a sequence of audio segments. Col. 9, lines 38-52 merely discloses that the data stream shown in Figure 7 includes three selectable audio messages, a primary message, and a fourth selectable message. A digital representation of an identification **of the originator** may be added as part of the data stream such that the recipient of the data stream may be able to listen to the message and request a search of the originator correlation and/or configuration repositories (Inniss, col. 9, lines 46-52, emphasis added). The identification mentioned in Inniss is of the originator, not of the sequence of audio segments. Moreover, the data stream of Inniss is of entire selectable audio messages; there is no identifier for each sequence of audio segments. Therefore, Inniss does not teach an audio identifier as that term is used in the claimed invention. Moreover, Inniss does not teach or suggest using the audio identifier to locate the sequence of audio segments in an audio server database and then playing the sequence to a recipient so that the recipient is apprised of network-related announcements. Thus, Inniss fails to teach or suggest each and every limitation of claim 1.

Wert does not cure the deficiencies of Inniss with respect to the element of audio identifier. Wert is cited by the Patent Office to teach network-related announcements. Wert does not teach or suggest the audio identifier of the claimed invention. Therefore, the combination of Inniss and Wert does not teach or suggest each and every limitation of the claimed invention. As such, claim 1 is non-obvious over the combination of Inniss and Wert.

Claim 36, 52, 60, and 67 also recite an audio identifier for identifying a sequence of audio segments similar to claim 1 and are therefore patentable for at least the same reasons as claim 1.

Claims 7, 40, and 55 also recite an audio identifier, albeit an audio identifier for identifying a set containing the audio segment. Claim 59 recites an audio identifier representing a set containing a plurality of members representing audio segments. For the same reasons set forth above with respect to claim 1, Inniss does not teach or suggest an audio identifier for identifying a set containing the audio segment. Inniss at best teaches selectable audio messages and an identification of the originator that sent the message that is selected. There is no teaching or suggestion in Inniss of a number or code uniquely associated with a set containing audio

12

segments. Therefore, Inniss does not teach or suggest each and every element of claims 7, 40, 55, and 59. Wert does not cure the deficiencies of Inniss with respect to the element of audio identifier. Therefore, the combination of Inniss and Wert does not teach or suggest each and every limitation of the claimed invention. As such, claims 7, 40, 55, and 59 are non-obvious over the combination of Inniss and Wert.

Claim 63 recites "at least one parameter for identifying the audio data segments." Inniss does not teach or suggest at least one parameter for identifying the audio data segments. Inniss at best teaches selectable audio messages and an identification of the originator that sent the message that is selected. There is no teaching or suggestion in Inniss of a parameter for identifying **the audio data segments**. Therefore, Inniss does not teach or suggest each and every element of claim 63. Wert does not cure the deficiencies of Inniss with respect to the element of a parameter for identifying the audio data segments. Therefore, the combination of Inniss and Wert does not teach or suggest each and every limitation of the claimed invention. As such, claim 63 is non-obvious over the combination of Inniss and Wert.

4. The Dependent Claims Are Non-Obvious

Claims 2-4, 10, 11, 37, 38, 53, 54, and 56 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Inniss in view of Wert and further in view of Arango. Appellant respectfully disagrees. The standards for combining references are set forth above.

Appellant initially traverses the rejection for the reasons set forth above in Section D.1 and D.2. Specifically, the combination of Inniss and Wert is improper for at least the two reasons set forth in D.1 and D.2. The addition of Arango does not cure the deficiencies of the underlying combination, and thus, this rejection is improper for both reasons as well.

In addition, the motivation asserted by the Patent Office to combine Arango does not compel the combination. Specifically, the Patent Office asserts that the motivation to add Arango is to provide conversion between the audio signals carried on the telephone circuits and data packets carried over the Internet or other packet networks. (See Office Action mailed July 28, 2005, p. 8, lines 5-7). If one needed to convert audio signals to data packets, one would arrive at Arango and stop because Arango solves this problem. That person would not need to add Inniss and Wert to Arango to convert audio signals to data packets. Thus, the asserted motivation does not compel the combination of Arango with Inniss and Wert.

13

Since the asserted motivation does not compel the combination of Arango with Inniss and Wert, the combination of the three references is improper. Since the combination of the three references is improper, the rejection based on the combination is improper. Appellant respectfully submits that claims 2-4, 10, 11, 37, 38, 53, 54, and 56 are also allowable on this basis.

Claims 5, 6, 12-19, 39, 43-45, 59, 63, and 66-69 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Inniss in view of Wert and further in view of Nimphius. Applicant respectfully traverses. The standards for combining references are set forth above. The combination of Inniss and Wert is improper for at least the two reasons set forth above in D.1 and D.2. The addition of Nimphius does not cure the deficiencies of the underlying combination and thus this rejection is improper for both reasons as well. Appellant respectfully submits that claims 5, 6, 12-19, 39, 43-45, 59, 63, and 66-69 are also allowable on this basis.

Claims 8, 9, 41, 42, 57, and 58 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Inniss in view of Wert and further in view of Barbara. The combination of Inniss and Wert is improper for at least the two reasons set forth above in D.1 and D.2. The addition of Barbara does not cure the deficiencies of the underlying combination and thus this rejection is improper for both reasons as well. Appellant respectfully submits that claims 8, 9, 41, 42, 57, and 58 are also allowable on this basis.

F. Conclusion

The Patent Office's proposed combination would render one of the references unsuitable for its intended purpose. In addition, the asserted motivation does not compel the proposed combination. Finally, even if properly combined, a point Appellant does not concede, the references do not teach or suggest each and every element of the claimed invention. Therefore, Appellant restfully submits that all pending claims are allowable and requests that the Board instruct the Examiner to allow all pending claims.

14

Respectfully submitted,

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Attorney Docket: 7000-045

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(8) APPENDIX

1.   A sequence processor for providing access to a sequence of audio segments accessible by an audio server, the sequence processor comprising computer-executable instructions embodied in a computer-readable medium for performing the steps comprising:

(a) receiving a request for playing the sequence of audio segments, wherein the sequence of audio segments comprises at least portions of network-related announcements to be played to a recipient, the sequence being identified by an audio identifier;

(b) locating, in an audio server database, the sequence of audio segments based on the audio identifier; and

(c) playing the sequence of audio segments to the recipient so that the recipient is apprised of at least one network-related announcement.

2.   The sequence processor of claim 1 wherein receiving a request includes receiving a request from a media gateway control protocol (MGCP) call agent.

3.   The sequence processor of claim 2 wherein receiving a request includes receiving an MGCP NotifyRequest command from the call agent.

4.   The sequence processor of claim 1 wherein playing the sequence includes transmitting audio data packets to a gateway over a packet-based network, and wherein the gateway plays the sequence.

5.   The sequence processor of claim 1 wherein receiving a request for playing the sequence of audio segments includes receiving a request for playing the sequence of audio segments wherein at least one of the audio segments is a variable.

16

6.   The sequence processor of claim 5 wherein playing the sequence of audio segments includes resolving the variable into an audio segment.

7.   A set processor for providing access to elements of a set of stored audio data, the set processor comprising computer-executable instructions embodied in a computer-readable medium for performing steps, comprising:

(a) receiving a request generated by a network component, said request comprising a request to play an audio segment to a recipient, the audio segment relating to a network-related announcement, the request including an audio identifier for identifying a set containing the audio segment and a selector for specifying a member of the set corresponding to the audio segment; and

(b) selecting the audio segment to be played based on the audio identifier and the selector.

8.   The set processor of claim 7 wherein the set contains a plurality of levels of audio data qualifiers and the selector specifies a path through the levels that leads to the member corresponding to the audio segment to be played.

9.   The set processor of claim 7 wherein the set contains a plurality of levels of audio data qualifiers and the selector specifies a partial path through the levels and selecting the audio segment to be played includes traversing the levels in an order specified by the selector and supplying default paths through levels not specified by the selector.

10.   The set processor of claim 7 wherein receiving a request to play an audio segment includes receiving a request from a media gateway control protocol (MGCP) call agent.

11.   The set processor of claim 10 wherein receiving a request to play an audio segment includes receiving an MGCP NotifyRequest command from the MGCP call agent.

17

12.   A variable processor for providing access to stored audio data segments corresponding to variables, the variable processor comprising computer-executable instructions embodied in a computer-readable medium for performing steps, comprising:

(a) receiving a request to play a sequence of audio data segments, the sequence adapted to convey a network-related announcement to a recipient, the request including a variable; and

(b) determining whether the variable is an embedded variable;

(c) in response to determining that the variable is an embedded variable, resolving a sequence of audio data segments containing the variable and resolving the variable; and

(d) playing the sequence including the variable.

13. The variable processor of claim 12 comprising, in response to determining that the variable is not an embedded variable, resolving the variable into at least one audio data segment based on at least one of type, subtype, and value of the variable.

14.   The variable processor of claim 13 wherein the variable is a multilanguage variable and wherein resolving the variable includes selecting audio data segments to be played based on a language specified by the variable.

15.   The variable processor of claim 12 wherein the variable is a multilanguage variable and wherein resolving the variable includes selecting audio data segments to be played based on a language specified by the variable.

16.   The variable processor of claim 12 wherein receiving a request to play the sequence includes receiving a request including a variable and a selector and resolving the variable includes identifying a set containing an audio data segment to be played.

18

17.   The variable processor of claim 16 further comprising identifying the audio data segment to be played based on the selector.

18.   The variable processor of claim 13 wherein receiving a request to play the sequence includes receiving a request including a variable and a selector, wherein resolving the variable includes identifying a set containing an audio data segment to be played.

19.   The variable processor of claim 18 comprising identifying the audio data segment to be played based on the selector.

36.   A sequence processor for providing access to a sequence of audio segments accessible by an audio server, the sequence processor comprising:

        (a) means for receiving a request for playing the sequence of stored audio segments, wherein the audio segments comprise at least portions of network-related announcements to be played to a recipient, the sequence being identified by an audio identifier;

        (b) means for locating, in an audio server database, a provisioned sequence of audio segments based on the audio identifier; and

        (c) means for playing the sequence of audio segments to the recipient so that the recipient is apprised of at least one network-related announcement.

37.   The sequence processor of claim 36 wherein the means for receiving a request comprises means for receiving a request from a media gateway control protocol (MGCP) call agent.

38.   The sequence processor of claim 36 wherein the means for playing the sequence includes means for transmitting the audio segments to a gateway over a packet-based network, and wherein the gateway plays the sequence.

19

39.   The sequence processor of claim 36 wherein the means for receiving a request includes means for receiving a sequence including at least one variable and wherein the means for playing the sequence of audio segments includes means for resolving the variable into an audio data segment.

40.   A set processor for providing access to elements of a set of stored audio data, the set processor comprising:

(a) means for receiving a request generated by a network component, requesting to play an audio segment to a recipient, the audio segment comprising at least a portion of a network-related announcement to be played to a recipient, the request including an audio identifier for identifying a set containing the audio segment and a selector for specifying a member of the set corresponding to the audio segment; and

(b) means for selecting the audio segment to be played based on the audio identifier and the selector.

41.   The set processor of claim 40 wherein the set contains a plurality of levels of audio data qualifiers and the selector specifies a path through the levels that leads to the member corresponding to the audio segment to be played, wherein the means for selecting the audio segment to be played to the recipient includes means for traversing the set based on the path specified by the selector.

42.   The set processor of claim 40 wherein the set contains a plurality of levels of audio data qualifiers and the selector specifies a partial path through the levels and the means for selecting the audio data segment to be played includes means for traversing the levels in the order specified by the selector and supplying default paths through the levels not specified by the selector.

43.   A variable processor for providing access to stored audio data segments corresponding to variables, the variable processor comprising:

20

(a) means for receiving a request to play a sequence of audio segments, the sequence adapted to convey a network-related announcement to a recipient, the request including a multilanguage variable specifying a language in which the audio sequence is to be played;

(b) means for resolving the multilanguage variable into at least one audio segment based on the language specified in the request; and

(c) means for playing the audio segment.

44.   The variable processor of claim 43 wherein the means for resolving the multilanguage variable includes means for selecting audio segments having inflections in accordance with the language specified in the request.

45.   The variable processor of claim 43 comprising means for qualifying the multilanguage variable after resolving the multilanguage variable using a selector.

52.   A method for accessing stored audio data comprising:

(a) transmitting a request to an audio server for playing stored audio data, the request including an audio identifier identifying a sequence of audio segments to be played;

(b) locating, in an audio server database, a sequence of provisioned audio segments corresponding to the audio identifier; and

(c) playing the sequence of audio segments to a recipient to convey a network-related announcement.

53.   The method of claim 52 wherein transmitting a request to an audio server includes transmitting a request from a media gateway control protocol (MGCP) call agent to an audio server.

21

54.   The method of claim 52 wherein playing the sequence of audio segments to the user includes sending the sequence of audio segments to the recipient over a packet-based network.

55.   A method for accessing stored audio data comprising:

    (a) transmitting a request to an audio server to play an audio segment, the audio segment including at least a portion of a network-related announcement to be played to a recipient, the request including an audio identifier for identifying a set containing the audio segment and a selector for specifying a member of the set corresponding to the audio segment; and

    (b) selecting the audio segment to be played based on the audio identifier and the selector.

56.   The method of claim 55 wherein transmitting a request to an audio server comprises transmitting a request from a media gateway control protocol (MGCP) call agent to the audio server.

57.   The method of claim 55 wherein the set contains a plurality of levels of audio data qualifiers and the selector specifies a path through the levels that leads to the member corresponding to the audio segment to be played.

58.   The method of claim 55 wherein the set contains a plurality of levels of audio data qualifiers and the selector specifies a partial path through the levels and selecting the audio data segment to be played includes traversing the levels in the order specified by the selector and supplying default paths through levels not specified by the selector.

59.   A computer-readable medium having stored thereon a set data structure, the set data structure comprising:

22

(a) a first data field containing an audio identifier representing a set containing a plurality of members representing audio segments comprising at least portions of network-related announcements to be played to a recipient; and

(b) a second data field containing a selector for selecting one of the members in the set.

60.   An audio server comprising:

(a) an interface card for receiving a request for playing a sequence of stored audio data segments, the audio data segments comprising at least portions of network-related announcements to be played to a recipient, the sequence being identified by an audio identifier;

(b) an audio server database embodied in a memory device storing provisioned sequences of audio data segments; and

(c) a processor programmed to extract a sequence of audio segments from the audio server database using the audio identifier in the request.

61.   The audio server of claim 60, comprising at least one digital signal processing (DSP) card for converting the sequence of audio data segments extracted from the audio server database into a format for playing to the recipient.

62.   The audio server of claim 60, wherein the audio server database includes sets having members representing audio data segments, and each of the members being selectable by a selector, and wherein the processor is programmed to locate a set in the audio server database based on an audio identifier received in a request and to locate a member in the set based on the selector received in a request.

63.   A processor for providing access to audio data segments accessible by an audio server, the processor comprising computer-executable instructions embodied in a computer-readable medium for performing steps comprising:

23

(a) receiving a request for playing audio data segments, the audio data segments comprising at least a portion of a network-related announcement to be played to a recipient, the request including at least one parameter for identifying the audio data segments;

(b) locating, in an audio server database, the audio data segments based on the parameter; and

(c) playing the audio segments.

64.   The processor of claim 63, wherein the parameter is an audio identifier for identifying a sequence of audio data segments, and wherein locating the audio data segments includes locating the sequence of audio data segments based on the audio identifier.

65.   The processor of claim 63, wherein receiving a request for playing audio data segments includes receiving a request including an audio identifier for identifying a set of audio data segments and a selector for selecting members of the set, and wherein locating the audio segments in the audio server database includes locating the segments based on the audio identifier and the selector.

66.   The processor of claim 63, wherein the parameter is a variable, and wherein locating the audio data segments in the audio server database includes resolving the variable into an audio data segment.

67.   An audio server package comprising:

(a) an event symbol recognizable by an audio server for instructing the audio server to detect or perform an action, the event symbol including a play announcement parameter for instructing the audio server to play a network-related announcement;

(b) a first parameter associated with the event symbol for defining how the audio server detects or performs the action, the first parameter including an announcement parameter for indicating the network-related announcement to be played; and

24

(c) an audio identifier associated with the announcement parameter for uniquely identifying an audio segment including the network-related announcement to be played.

68.   The audio server package of claim 67 comprising a variable parameter associated with the play announcement parameter for instructing the audio server to resolve a variable into an audio identifier and play the announcement specified by the audio identifier.

69.   The audio server package of claim 67 comprising a set parameter and a selector parameter associated with the play announcement parameter for instructing the audio server to access a set of stored audio segments and locate the audio segment containing the announcement to be played based on the selector.

25

(9) EVIDENCE APPENDIX

Appellant relies on no evidence, thus this appendix is not applicable.

26

(10) RELATED PROCEEDINGS APPENDIX

As there are no related proceedings, this appendix is not applicable.

27